IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O.O.C.J.

WRIT PETITION NO. 957 OF 2001

Deepak Sakharam Kamble ... Petitioner

Vs.

The Bombay Municipal Corporation ... Respondents

Mr. A.A. Bookwala with Mr. Devendra Sharma for Petitioner.

Mrs. A.R. Joshi for Respondents.

CORAM : F.I. REBELLO,J.
DATED : AUGUST 06, 2004

P.C. :

1. At the stage of admission, interim order came to be passed on 2.5.2001 in terms of Prayer Clause (e) which reads as under :

"that pending the hearing and final disposal of the petition in alternative to the above this Hon'ble Court be pleased to permit the Petitioner to reconstruct and/or re-do the work demolished by the officers of the Respondents at part of attic floor of Hotel China Gate, situated at Survey No. 445, Hissa No. 1 (Part), C.T.S. No. 1118, Vasant Nagar, Link Road, Chincholi, Malad (West), Mumbai

400 064."

2. Pursuant to that, petitioners have already reconstructed the demolished portion of the attic. Considering the above and contentions of the parties, petition can be disposed of by issuing following directions :

(1) It will be open to the petitioners by following due procedure to apply for the regularisation of the reconstructed attic within four weeks from today. On so applying the Executing Engineer (Building Proposal) Western Suburbs to consider the same and dispose of the same according to law within the period of eight weeks thereafter.

(2) If the attic is incapable of regularisation, then Respondent not to demolish the said attic without following due procedure of law. At any rate, steps be taken only after two weeks of communication of the orders to petitioner that the attic cannot be regularised.

(3) If the petitioner do not make such application within four weeks it will be open to the

respondents to take steps for demolition by following due procedure of law.

(4) Rule made absolute accordingly. No order as to costs.

(F.I. REBELLO,J.)